HON'BLE SHRI G.S. SINGHVI, THE CHIEF JUSTICE

–

WRIT PETITION NO. 10195 OF 1996

BETWEEN:

Cirra Narsamma

.....**Petitioner**

And

The Government of Andhra Pradesh, rep. by its Secretary, Department of Revenue, Hyderabad & others

.....**Respondents**

:: O R D E R::

Counsel for the Petitioner : Shri Sricharan

Counsel for the Respondent Nos. 1 and 2 : Government Pleader

for Land Acquisition

Counsel for the Respondent No.3 : None

Dated: 12.04.2006

This is a petition for quashing notification dated 02.03.1994 issued by District Collector, Krishna under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act') for acquisition of Ac.1.50 cents of dry land comprised in Revenue Survey No.706/1 for a public purpose i.e. to provide house sites to the members of Scheduled Castes.

The petitioner has averred that at the time of marriage, her father – Uppala Narayana (respondent No.3) had gifted the land in question and since then she is in possession and enjoyment thereof. She has further averred that vide notification dated 02.03.1994, District Collector proposed to acquire the land gifted to her but, neither of the boundaries of land were specified nor she was given notice and of opportunity to represent her cause in the enquiry held under Section 5-A of the Act.

In the counter-affidavit filed by Shri S. Venkata Rao, Revenue Divisional Officer, Nuzvid, Krishna district, it has been averred that the land in question was acquired for providing house sites to the weaker sections of the society. It has been further averred that notification under Section 4(1) of the Act was published in Krishna District Gazette No.14 of 1994 dated 02.03.1994. The same was also published in the locality on 08.03.1994 and two daily newspapers i.e. Prajasakthi and Eenadu on 04.03.1994 and 08.03.1994 respectively. Declaration under Section 6 of the Act was published in Krishna District Gazette dated 11.03.1994 and also in the locality on 22.03.1994 apart from two local news papers i.e. Krishna Patrika and Visalandhra. Thereafter, award No. 3 of 1994 dated 31.05.1994 was passed. According to Shri S. Venkata Rao, the petitioner's name does not figure in the relevant records. She has neither cultivated the land or paid land revenue and her name does not find place in the village accounts showing her possession and enjoyment of the land

in question. He has further averred that the petitioner had filed the suit for injunction in the Court of District Munsif, Tiruvuru, which was registered as O.S.No.421 of 1994. The same was dismissed in default on 23.04.1997. In paragraph 7 of his affidavit, Shri Venkata Rao has averred that after passing of award, possession of the land had been taken by the department.

Heard learned counsel for the parties and perused the record. The main ground, on which the petitioner has questioned the legality of acquisition proceedings is that she was neither served with notice of acquisition nor she was given opportunity to participate in the enquiry held under Section 5-A of the Act. Another plea taken by the petitioner is that the impugned notification is liable to be quashed because, the boundaries of the land sought to be acquired have not been specified. According to her, Revenue Survey No.706/1 comprises Ac.6.00 of land belonging to respondent No.3, out of which Ac.1.50 cents had been transferred to her vide settlement deed dated 10.10.1987, but, without specifying the boundaries the land has been acquired and that too without giving her notice and opportunity of hearing.

Learned counsel for the petitioner re-iterated the grounds taken in the writ petition for challenging notification issued under Section 4(1) of the Act and argued that even though award had been made on 31.05.1994 and possession of the acquired land had been taken on 07.10.1994, the Court should nullify the acquisition proceedings on the ground of non-compliance of the procedure prescribed under Section 5-A of the Act. He argued that the land in dispute had been transferred in favour of the petitioner vide unregistered Settlement Deed dated 10.10.1987 and, therefore, the respondents could not have acquired the same without giving her notice and opportunity to represent her cause in the enquiry held under Section 5-A of the Act.

Learned Government pleader raised the objection of delay and argued that the writ petition should be dismissed because, the petitioner has not offered any explanation regarding the time gap of more than two years between the date of notification issued under Section 4(1) of the Act and filing of the writ petition. He further argued that the petitioner cannot complain of the denial of opportunity of hearing because her name did not figure in the revenue records and other records maintained by the official respondents. Learned counsel emphasized that notice of the acquisition was duly served on respondent No.3,

who was recorded as owner at the relevant time, but he did not file any objection and did not participate in the proceedings held under Section 5-A of the Act.

I have thoughtfully considered the respective arguments and perused the record. Since the petitioner has not controverted the fact that her name does not figure in the revenue records and respondent No.3 continues to be shown as owner of the entire land comprised in revenue survey No.706/1, it is not possible to quash the acquisition on the ground of violation of procedure prescribed under Section 4(1) read with Section 5-A of the Act. In my considered opinion, a person whose name is not recorded as owner in the relevant records has no right to be noticed about proceedings initiated under Section 4(1) or to participate in the enquiry held under Section 5-A of the Act.

I am further of the view that the writ petition is liable to be dismissed on the ground of latches. It is true that immediately after publication of notification under Section 4(1) of the Act, the petitioner instituted civil suit in the Court of District Munsif, Tiruvuru and succeeded in persuading the trial Court to pass order of injunction, but the time spent in prosecuting the suit cannot enure to her advantage because, the learned District Munsif did not have the jurisdiction to entertain the challenge to notification issued under Section 4(1) of the Act. In any case, the writ petition cannot be entertained after passing of the award. Reference in this connection can usefully be made to the judgments of the Supreme Court in **C. Padma v. Deputy Secretary to the Government of Tamil Nadu, Municipal Corporation of Greater Bombay v. Industrial Development Investment Co. (P) Ltd. and Municipal Council, Ahmednagar v. Shah Hyder Beig.**

For the reasons mentioned above, the writ petition is dismissed.

G.S.SINGHVI, CJ

ksld/vtv

12.04.2006